

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KARRIEM MOHAMMED-EL,
Plaintiff,
v.
EMC MORTGAGE CORPORATION,
Defendant.

No. CR 09-80077M CW

ORDER DISMISSING
PLAINTIFF'S
"INTERNATIONAL
COMMERCIAL CLAIM
WITHIN THE
ADMIRALTY"

Plaintiff Karriem Mohammed-El filed a document entitled, "Notice of International Commercial Claim Within the Admiralty ab initio Administrative Remedy." This document and its attachments appear to be a complaint against Defendant EMC Mortgage Corporation regarding a contract and a foreclosure proceeding involving the real property located at 2900 Rheem Avenue, Richmond, California.

Despite the fact that Plaintiff has labeled his complaint as "within the admiralty," its subject matter is real property located in Richmond, California, which has nothing to do with admiralty. See Jose v. M/V Fir Grove, 765 F. Supp. 1015, 1019 (D. Or. 1990) (an admiralty claim must have (1) a maritime situs, that is, a tort on or over navigable waters, and (2) a maritime nexus, that is, a significant relationship to traditional maritime activity); Solano

1 v. Beilby, 761 F.2d 1369, 1371 (9th Cir. 1985) (the principle focus
2 of maritime jurisdiction is the protection of maritime commerce).

3 Courts may raise jurisdictional questions sua sponte. Rowe v.
4 United States, 633 F.2d 799 (9th Cir. 1980); 13 Wright, Miller &
5 Cooper, Federal Practice and Procedure: Jurisdiction 2d § 3522
6 (1984). Dismissal is appropriate under Rule 12(b)(1) when the
7 district court lacks subject matter jurisdiction over the claim.
8 Fed. R. Civ. P. 12(b)(1).

9 Plaintiff's complaint, which involves a contract and possible
10 foreclosure proceeding regarding real property, arises out of state
11 law. Because there is no basis for federal jurisdiction, the Court
12 lacks subject matter jurisdiction over this complaint. The
13 complaint is dismissed without prejudice to refiling in state
14 court.

15 IT IS SO ORDERED.

16
17 Dated: October 15, 2009



18 CLAUDIA WILKEN
19 United States District Judge
20
21
22
23
24
25
26
27
28